

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LEONDRE WALKER,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

8:22CV433

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's Motion for Extension. [Filing No.](#)

[11.](#)

On December 29, 2022, the Court entered a Memorandum and Order notifying Petitioner that it intended to characterize his "Motion to Revive," [Filing No. 1](#), and supplement, [Filing No. 2](#), as a petition for writ of habeas corpus pursuant to [28 U.S.C. § 2254](#). [Filing No. 4](#). The Court gave Petitioner until January 30, 2023, to either voluntarily withdraw his pleading if he did not wish this matter to proceed as a [§ 2254](#) action or to amend his petition to cure the deficiencies identified by the Court. The Court also directed Petitioner to either pay the \$5.00 filing fee or file a motion for leave to proceed in forma pauperis ("IFP"). The Court enclosed both the form application to proceed IFP and the Form AO241 Petition Under [28 U.S.C. § 2254](#) for a Writ of Habeas Corpus. [Id. at 3–4](#).

On January 9, 2023, Petitioner filed an IFP motion dated January 4, 2023. [Filing No. 5](#). On January 26, 2023, Petitioner submitted a copy of his inmate trust account statement, [Filing Nos. 8 & 9](#), and, that same day, the Court granted Petitioner's motion to proceed IFP and reminded him of his January 30, 2023 deadline to either withdraw or

amend his petition, [Filing No. 10](#). Petitioner now requests an extension of time to withdraw or amend his petition stating he “did not receive these instructions from the court via mail till [sic] January 30, 2023.” [Filing No. 11 at 2](#).

The docket sheet reflects that the Court’s December 29, 2022 Memorandum and Order instructing Petitioner to either withdraw or amend his petition was mailed to Petitioner and was not returned to the Court. See [Filing No. 4](#), Docket Text. However, upon consideration and out of an abundance of caution, the Court will grant Petitioner’s motion for extension, and Petitioner shall have 30 days from the date of this order to either withdraw or amend his habeas petition in accordance with the Court’s December 29, 2022 Memorandum and Order, a copy of which the Court will include with this order.

IT IS THEREFORE ORDERED that:

1. Petitioner’s Motion for Extension, [Filing No. 11](#), is granted. Petitioner shall have until **March 10, 2023**, to either voluntarily withdraw or amend his habeas petition in accordance with the Court’s December 29, 2022 Memorandum and Order, [Filing No. 4](#).
4. No further extensions of time will be granted absent good cause.
2. Petitioner is warned that failure to respond to this order or file an amended petition will result in dismissal of this matter without prejudice and without further notice to Petitioner for the reasons outlined in the December 29, 2022 Memorandum and Order.
3. The Clerk of the Court is directed to send to Petitioner the Form AO241 Petition Under [28 U.S.C. § 2254](#) for a Writ of Habeas Corpus and a copy of [Filing No. 4](#), the Court’s December 29, 2022 Memorandum and Order.

4. The Clerk of Court is directed to set a pro se case management deadline using the following text: **March 10, 2023**: deadline to withdraw or amend habeas petition.

Dated this 8th day of February, 2023.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Judge